

Chapter 5: Legislative framework

Environment Effects Statement



5 Legislative framework

This chapter outlines the legislative framework and approvals process for the Victoria to New South Wales Interconnector (VNI) West (Victorian component) (the Project).

5.1 Introduction

The Project is being assessed through an Environment Effects Statement (EES) administered by the Victorian Minister for Planning (the Minister) under the *Environment Effects Act 1978* (Vic) (EE Act).

The EE Act provides for environmental impact assessment of proposed project works capable of having a significant effect on the environment. The assessment of a project under the EES process does not confer approval for a project but informs decision makers when considering project approvals.

Statutory approvals for a project being assessed under the EE Act cannot be considered and issued by regulatory authorities until the Minister's assessment of the EES is made.

Following the Minister's assessment of the EES, project approval decisions would be made by the relevant statutory authorities.

The Project would require a number of key approvals including:

- Approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act)
- Approved Cultural Heritage Management Plans (CHMPs) prepared in accordance with the requirements of the *Aboriginal Heritage Act 2006* (Vic) (AH Act) and Aboriginal Heritage Regulations 2018 (AH Regulations).
- Proposed Ministerial Planning Scheme Amendment which would include the introduction of a Specific Controls Overlay and corresponding Incorporated Document for the Project to each of the Gannawarra Planning Scheme, Buloke Planning Scheme, Northern Grampians Planning Scheme and Loddon Planning Scheme for the transmission assets in accordance with the *Planning and Environment Act 1987* (Vic) (P&E Act).

5.2 Environment Effects Act 1978

The EE Act sets out the process by which the Minister may require the proponent of a project to prepare an EES. An EES is a multidisciplinary environmental impact assessment about a proposed project and its potential environmental effects. An EES helps to inform the Minister's assessment on the acceptability of a project's environmental effects.

5.2.1 EES process

EES referral

The Project was referred to the Minister under the EE Act on 6 February 2024. On 13 April 2024, the Minister issued a decision that the Project is to be assessed through an EES. The reasons for the decision included:

- The nominated Area of Interest for the Project is significant in length and size and includes areas of significant environmental values, including:
 - Native vegetation and ecological values
 - Agricultural and other land uses
 - Aboriginal cultural values
 - Visual and landscape values
 - Other social values
- The Project has the potential for a range of significant environmental effects on:
 - Biodiversity
 - Surface water and groundwater
 - Aboriginal cultural values
 - Agriculture
 - Landscape values
 - Amenity and socioeconomic values
- There are alignment and design alternatives for the project requiring assessment and refinement in relation to opportunities for avoidance and/or minimisation of potentially significant effects.

Scoping requirements

The matters to be investigated and documented in the EES are set out in the Scoping Requirements for the Project issued by the Minister for Planning. The Scoping Requirements ensure that the EES properly responds to the reasons why an EES is required, identifies potentially significant environmental effects and requires the proponent to outline how environmental effects of the proposed works would be avoided, mitigated or managed throughout each project phase in sufficient detail to enable the Minister to provide an assessment of the environmental effects under the EE Act.

Draft Scoping Requirements for the Project were exhibited by the Department of Transport and Planning (DTP) for public comment between 28 November 2024 to 18 December 2024. After considering public submissions, the Minister published the final EES Scoping Requirements in February 2025. This EES has been prepared in accordance with the final EES Scoping Requirements.

Technical reference group

A technical reference group (TRG) was also established in accordance with the Ministerial guidelines for assessment of environmental effects under the Environment Effects Act 1978 (Eighth edition, 2023) (EES Guidelines). The primary role of the TRG is to advise on the scoping requirements and consultation plan for the EES, advise on scoping and adequacy of technical studies and EES chapters.

The EES process is designed to be rigorous and transparent with opportunities provided for input from stakeholders and the wider community.

Public exhibition

The EES will be placed on public exhibition for at least 30 business days after completion. During this time, all stakeholders will have access to the EES and associated technical studies. Any person can make written submissions on matters addressed in the EES and technical studies.

Submissions can also be made on the applications for statutory approvals being exhibited at the same time, which for this Project, will be the draft Planning Scheme Amendment (refer to *Attachment I: Draft Planning Scheme Amendment (PSA)*).

Inquiry

The Minister has directed (in the Minister's decision dated 13 April 2024) that an inquiry will be appointed under the EE Act to consider the environmental effects of the Project.

Accordingly, an Inquiry and Advisory Committee (IAC) will be appointed to conduct an inquiry into the EES, the exhibited applications and public submissions, and to provide a report to the Minister.

The IAC is appointed pursuant to:

- Section 9(1) of the EE Act as an inquiry
- Part 7, section 151(1) of the P&E Act as an advisory committee, to consider the draft planning scheme amendment (PSA)

Minister's assessment

The Minister will consider the IAC's report prior to issuing a written assessment of the Project. The assessment, called the Minister's assessment, then informs statutory decision-makers responsible for issuing environmental approvals for the project. Relevant statutory decision makers cannot make decisions on the Project's statutory approvals and the works must not proceed until the Minister's assessment has been made and considered by those statutory decision-makers.

Further information on the EES process is provided in *EES Chapter 1: Introduction*.

5.3 Principal approvals process

The following section discusses key legislation and associated approval process requirements. Figure 5-1 outlines the principal approvals processes required for each of the Project components.

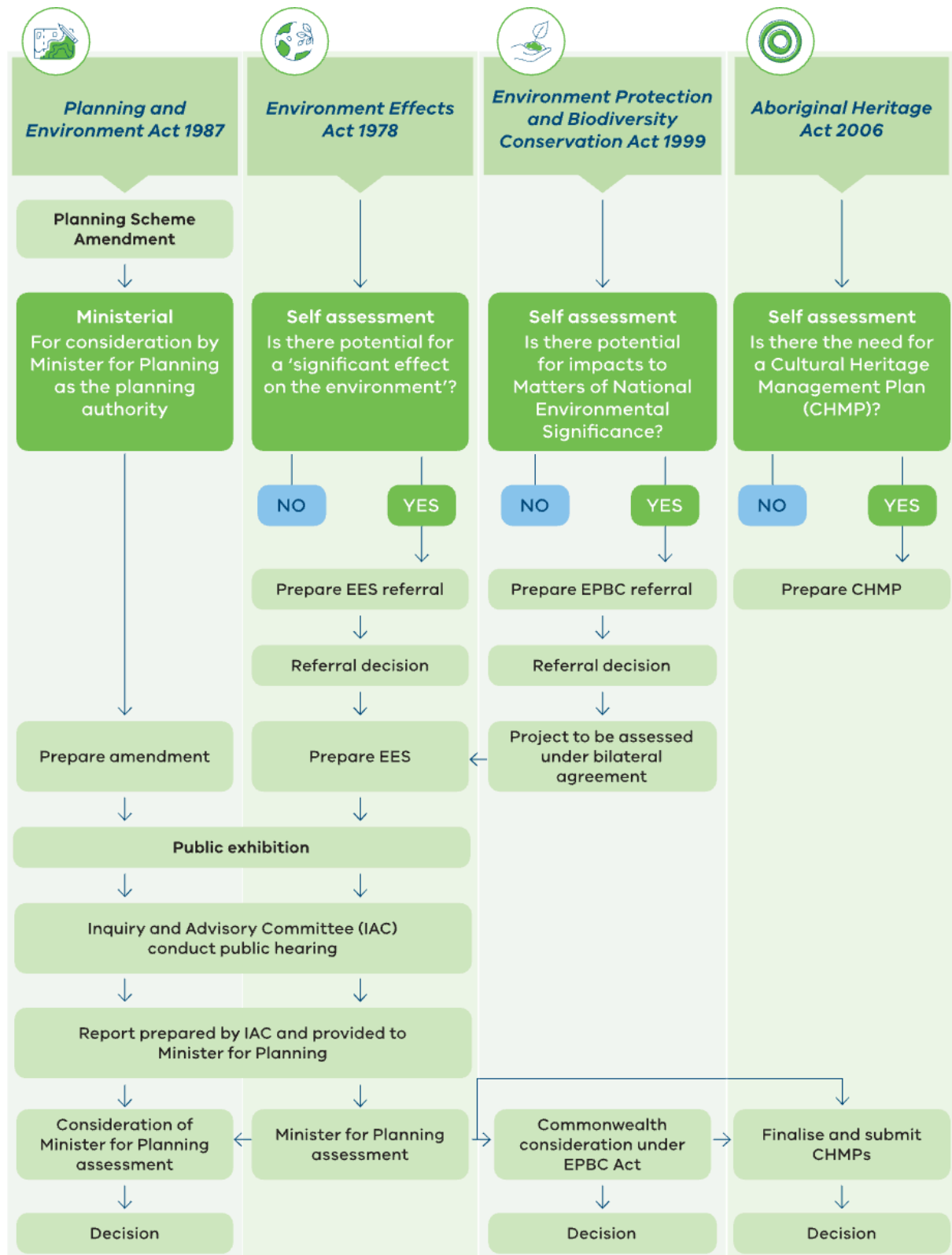


Figure 5-1 Key legislation and approval requirements

5.3.1 Environment Protection and Biodiversity Conservation Act 1999

The EPBC Act is the Commonwealth Government's principal environmental protection and biodiversity conservation legislation. It provides a legal framework for the conservation of biodiversity and the protection of the environment, particularly those aspects which are covered by the nine Matters of National Environmental Significance, which include:

- World heritage properties
- National heritage places
- Wetlands of international importance (often called Ramsar wetlands after the international treaty under which such wetlands are listed)
- Nationally threatened species and ecological communities
- Migratory species
- Commonwealth marine areas
- The Great Barrier Reef Marine Park
- Nuclear actions (including uranium mining)
- A water resource, in relation to coal seam gas development and large coal mining development

An EPBC Act referral was submitted for the Project (2024/09790 - Victoria to New South Wales Interconnector West, VNI West, Victorian Component). On 13 June 2024, a delegate of the Commonwealth Minister for the Environment within the Department of Climate Change, Energy, the Environment and Water decided that the Project is a controlled action under the EPBC Act and as such would require assessment and approval under the EPBC Act before it can proceed.

The Minister's delegate considered that the Project will have, or is likely to have a significant impact on the following Matters of National Environmental Significance (controlling provisions):

- Ramsar wetlands (EPBC Act, sections 16 and 17B)
- Listed threatened species and communities (EPBC Act, sections 18 and 18A)
- Listed migratory species (EPBC Act, sections 20 and 20A)

The Victorian EES assessment process undertaken under the EE Act will be used as an accredited assessment process for the purposes of the assessment of the Project under the EPBC Act, in accordance with the bilateral assessment agreement between the Commonwealth and Victorian governments.

After considering the EES and the Minister's assessment under the EE Act, the Commonwealth Minister for the Environment or their delegate will decide whether the action is approved, approved with conditions, or refused under the EPBC Act.

5.3.2 Aboriginal Heritage Act 2006

The AH Act provides for the protection of Aboriginal cultural heritage in Victoria. Section 49 of the AH Act states that a Cultural Heritage Management Plan (CHMP) must be prepared before commencing any works, where an EES is required under the EE Act for those works.

The Proposed Easement crosses through areas of Barengi Gadjin Land Council and Dja Dja Wurrung Clans Aboriginal Corporation Registered Aboriginal Party's (RAP) jurisdiction. Parts of the Proposed Easement also pass through areas where no RAP has been appointed under the *Aboriginal Heritage Act 2006* (Vic). These areas where no RAP has been appointed include lands associated with Barapa Barapa Traditional Owners and Wamba Wemba Traditional Owners.

VicGrid VNI West is preparing six CHMPs in consultation with:

- Wamba-Wemba Aboriginal Corporation, including Wamba-Wemba Traditional Owners and representatives prior to RAP status
- Barapa Barapa Knowledge Holders and community members
- Barengi Gadjin Land Council
- Dja Dja Wurrung Clans Aboriginal Corporation
- First Peoples – State Relations

Barengi Gadjin Land Council and Dja Dja Wurrung Clans Aboriginal Corporation are the RAPs for part of the Project area and would evaluate the CHMPs and determine if they are approved. First Peoples – State Relations are responsible for approving the CHMPs in areas that do not fall within a RAP. As required by section 49 of the AH Act, works for the Project cannot commence until the CHMPs have been approved.

The draft CHMPs are being prepared concurrently with the EES and are informed by the *Technical Appendix R: Aboriginal cultural heritage*. They are not publicly exhibited with the EES. The CHMPs are lodged for approval following the Minister's assessment of the EES.

5.3.3 Planning and Environment Act 1987

The purpose of the P&E Act is to establish a framework for planning the use, development and protection of land in Victoria in the present and long-term interests of all Victorians.

The P&E Act sets out the structure and administration of planning in Victoria and outlines procedures for preparing planning schemes in each municipality consistent with the Victoria Planning Provisions as well as procedures for amending planning schemes and obtaining planning permits to govern land use and development. The Project affects land within the municipalities of Gannawarra, Buloke, Northern Grampians and Loddon.

Planning approval under the P&E Act will be required for the Project. The preferred planning approval pathway is via a Planning Scheme Amendment (PSA), which provides an efficient and simplified approval process to allow the use and development of land for the Project in each of the Gannawarra, Buloke, Northern Grampians and Loddon planning schemes.

A draft PSA has been prepared as part of this EES (refer to *EES Attachment I: Draft Planning Scheme Amendment*) and will be exhibited with this EES.

For the Project, it is intended to request that the Minister prepare a PSA that applies a Specific Controls Overlay (SCO) to the Project Land and incorporates an Incorporated Document to specify the controls which would apply to the Project, into the Gannawarra, Buloke, Loddon and Northern Grampians planning schemes.

The Incorporated Document exempts the Project from various requirements of the relevant planning schemes, including the requirement to obtain a permit, provided that the Project is carried out in accordance with the requirements of the Incorporated Document.

The P&E Act provides the statutory framework for the PSA to be prepared, exhibited, adopted and approved by the Minister. The PSA is a draft unless and until approved by the Minister. The Minister will assess the PSA, including the Incorporated Document, against the requirements of the P&E Act, as well as relevant Ministerial Directions, planning provisions and schemes.

The PSA, including the application of the SCO and Incorporated Document to the relevant planning schemes, would provide the primary planning approval for the use and development associated with the Project.

If approved as part of the PSA, the Project will be required to be carried out in accordance with conditions and requirements set out in the Incorporated Document. The conditions and requirements of the Incorporated Document have been drafted on the basis that they are:

- Strategic
- Outcomes focused
- Proportional to the permission granted by the control
- Have a clear nexus between the Project and the local planning context

The Incorporated Document requires the preparation of an Environmental Management Framework (EMF) (see *EES Chapter 28: Environmental Management Framework*) which must include environmental performance requirements (EPRs) applicable to the design, construction, operation and decommissioning of the Project. The EMF must set out the process and timing for the development of management plans such as a Construction Environment Management Plan (CEMP), an Operation Environment Management Plan (OEMP), a Native Vegetation Removal Plan and a Construction Bushfire Management Plan.

The EPRs recommended for the Project through the EES process will be addressed in these plans.

VicGrid VNI West anticipates that it would request the Minister to approve the PSA, exempt from the further notice requirements under the P&E Act using the Minister's powers under section 20(4) of the P&E Act, given that the PSA is of state and regional significance, will be publicly exhibited, has been the subject of several years of ongoing community engagement and will be subject to a public inquiry process as part of the EES.

Following consideration of the EES and submission through the inquiry, the Minister will decide whether to use their powers under section 20(4) of the P&E Act to exempt the PSA from further exhibition.

The Minister will also make a subsequent decision as to whether to approve the PSA, or require changes to the PSA, informed by the Minister's assessment of the EES.

5.4 Other approvals

A range of other approvals may be required for the Project under Victorian legislation, which (if required) would be sought after the primary approvals have been obtained and prior to construction commencement. These other approvals may include those outlined under the legislation below. Other required project approvals may also be identified as the Project development proceeds.

This section does not outline any land tenure arrangements (such as leases under the *Land Act 1958*).

5.4.1 Crown Land (Reserves) Act 1978 (Vic)

The *Crown Land (Reserves) Act 1978* (Vic) provides for the reservation of Crown Land for a range of purposes, including preservation/conservation, and stipulates how reserved land must be managed and used. It also prescribes some governance agreements for Committees of Management appointed to manage reserved Crown land.

Approval and tenure provisions for commercial and non-commercial purposes are required for reserved Crown land. Approval is required to enter into any tenure arrangement for the use of Crown Land associated with the Project which would be managed as part of the proposed PSA.

5.4.2 Flora and Fauna Guarantee Act 1988

The *Flora and Fauna Guarantee Act 1988* (FFG Act) is a key part of Victoria's legislative framework for the protection and management of biodiversity. The FFG Act provides a legal framework to promote conservation of Victoria's native flora and fauna and enables management of potentially threatening processes. Threatened species and communities of flora and fauna, as well as threatening processes, are listed under the FFG Act.

A permit or licence is required to take or remove any listed threatened species or communities from public or private land, including in association with road upgrades or works planned on a road, land, street or footpath or other construction activities or their effects, including ground disturbance and vegetation clearance.

Any Licence or Permit obtained under the FFG Act must also satisfy the approving authority in matters concerning Section 4, 4A, 4B and 4C of the *Flora and Fauna Guarantee Amendment Act 2019*, as required.

5.4.3 Heritage Act 2017

The *Heritage Act 2017* (Vic) provides for the protection and conservation of places and objects of cultural heritage significance to the state of Victoria.

Where activities are proposed in the vicinity of historic heritage places, permits and consents are required from Heritage Victoria where a protected place or object is proposed to be disturbed. In addition, the Heritage Act includes blanket provisions that prohibit the removal or disturbance of any archaeological relics, whether known or unknown, without a permit.

There are no protected places or objects proposed to be disturbed as part of the Project, and therefore no permit or approval is required under the Heritage Act.

An unexpected finds protocol will be developed and integrated into the Project's CEMP to provide contingencies in the event that historical heritage is encountered at any stage of the Project.

5.4.4 Environment Protection Act 2017

The *Environment Protection Act 2017* (Vic) (EP Act), together with the *Environment Protection Regulations 2021* (EP Regulations) and the Environment Reference Standard (ERS), forms a vital part of Victoria's framework for the protection of human health and the environment from pollution and waste.

The EP Act introduces a general environmental duty, which imposes a broad obligation on entities and individuals to take proactive steps to minimise risks of harm to human health and the environment from pollution and waste so far as reasonably practicable.

Administered by Environment Protection Authority Victoria, the EP Act governs any activities which may have an impact on human health and the environment, including pollution incidents, contaminated land, and environmental discharges. Projects must comply with these obligations through a system of permissions and licences and compliance with the various duties under the EP Act. The EP Regulations define specific prescribed activities, emissions limits, and waste classifications, ensuring operational compliance. The ERS provides environmental quality benchmarks, serving as a reference to assess whether activities meet the required standards for protecting public health and the environment.

The Project may require permissions under the EP Act should it meet the criteria of any prescribed activity in the EP Regulations. Compliance with all duties under the EP Act will be required regardless of whether any permission is required.

5.4.5 Water Act 1989

The *Water Act 1989* (Vic) (Water Act) provides the legislative framework for the integrated management of Victoria's water resources.

Any works that would be undertaken within, or in proximity to a waterway would require a Works on Waterways Permit from the relevant catchment management authority. A 'take and use' licence would also be required for any water extracted from a waterway or from groundwater.

5.4.6 Wildlife Act 1975

The *Wildlife Act 1975* (Vic) (Wildlife Act) provides the legislative framework for the protection and management of Victoria's wildlife. It establishes regulations for the protection of native species and their habitats and includes provisions to authorise necessary control and management of wildlife populations.

Authorisation under the Wildlife Act for the necessary control or management (including removal or salvage activities) of wildlife as defined under that Act would be required.

This authorisation is likely to be required if wildlife are intentionally disturbed or controlled under the Project, including for any wildlife removal or salvage activities or alternatively, due to construction activities such as fencing installation. In Victoria, wildlife species are defined in the Wildlife Act, and include all Australian indigenous vertebrate species, listed deer and game birds, and any terrestrial invertebrate species that are listed under the FFG Act.

5.4.7 Road Management Act 2004

The purpose of the *Road Management Act 2004* (Vic) (RM Act) is to promote a safe, responsible and efficient use of the road networks in Victoria.

Any road upgrades or works planned on a road, lane, street or footpath, including road opening, closure or traffic diversion would require the consent of the relevant road authority under the RM Act and would require a Traffic Management Plan (TMP) to be prepared to the satisfaction of that relevant road authority.

A TMP would be required for any roads that are upgraded to accommodate heavy vehicles during construction and operation of the project. The TMP must be prepared in accordance with the requirements of the *Road Safety Act 1986* and the Australian Standard AS 1742.3 2019 Traffic control devices for works on roads.

During the development of the TMP for the Project, consultation with key stakeholders would be undertaken.

5.4.8 Electricity Industry Act 2000

Under the *Electricity Industry Act 2000* (Vic), specifically section 93, authorised persons from electricity corporations are able to undertake surveys and certain other activities in accordance with the requirements of the Act. This applies to licensed electricity transmission companies, such as VicGrid VNI West.

Any access to private land must comply with the procedures set out by the Essential Services Commission Land Access Code of Practice.

5.4.9 Electricity Safety Act 1998

The purpose of the *Electricity Safety Act 1998* (Vic) relates to the safety of electricity supply and use, the reliability and security of electricity supply and the efficiency of electrical equipment.

Any major electricity company must submit an electricity safety management scheme (ESMS) to Energy Safe Victoria (ESV) for each of its supply networks prior to commencing operations. The ESMS must be accepted by ESV prior to commencing operations.

5.4.10 Forests Act 1958

The *Forests Act 1958* provides a framework for the management of state forests. Under the *Forests Act 1958*, specifically Section 52, a licence or permit may be required for operation of the Project within a State forest.

5.4.11 Transport Integration Act 2010

The Act provides a legislative framework for transport in Victoria. The Act seeks to integrate land use and transport planning and decision-making by applying the framework to land use agencies whose decisions can significantly impact on transport. The Act requires agencies, including the Department of Transport and Planning Authorities, to consider the potential impact of land use planning proposals on transport.

There is the potential for approvals to be required from VicTrack for any temporary structures required on VicTrack land for any rail line crossings or the line crossings.

5.4.12 Heavy Vehicle National Law Application Act 2013

The *Heavy Vehicle National Law Application Act 2013* applies the national scheme for facilitating and regulating the use of heavy vehicles on road over 4.5 tonnes gross vehicle mass across participating Australian states and territories, operating in tandem including recent updates to the national law which is administered by the National Heavy Vehicle Regulator (NHVR). The NHVR administers one set of laws for heavy vehicles over 4.5 tonnes gross vehicle mass. Approval may be required for oversized and heavy vehicles and other vehicle combinations for non-approved routes.

5.5 Summary of key approvals and administering agencies

A summary of the key approvals required for the Project is outlined below in Table 5-1, along with the relevant statutory approval authority and the applicable project phase.

Table 5-1 Summary of key approvals

Legislation	Statutory approvals required	Statutory approval authority	Project phase
Environment Protection and Biodiversity Conservation Act 1999 (Cth)	Approval of the controlled action	Commonwealth Minister for the Environment	Construction Operation Decommissioning

Legislation	Statutory approvals required	Statutory approval authority	Project phase
Aboriginal Heritage Act 2006	Approval of Six Cultural Heritage Management Plans	Minister for Aboriginal Affairs/First Peoples – State Relations and relevant Registered Aboriginal Party	Construction Operation Decommissioning
Planning and Environment Act 1987	Planning Scheme Amendment to the Gannawarra, Loddon, Buloke and Northern Grampians planning schemes (a Specific Controls Overlay with an Incorporated Document is proposed).	Minister for Planning	Construction Operation Decommissioning
Flora and Fauna Guarantee Act 1988 Flora and Fauna Guarantee Amendment Act 2019 Flora and Fauna Guarantee Regulations 2020	A Protected Flora Licence or Permit under the Act for any threatening process or removal of protected flora (which includes threatened flora species and the plants that make up threatened communities) listed under the FFG Act from public land required. Any Licence or Permit obtained under the FFG Act must also satisfy the approving authority in matters concerning Section 4, 4A, 4B and 4C of the <i>Flora and Fauna Guarantee Amendment Act 2019</i> , as required.	Minister for Energy, Environment and Climate Change/Department of Energy, Environment and Climate Action	Construction Operation
Water Act 1989	Consent for minor waterway work for each crossing of a waterway by the proposed transmission line.	Minister for Water/Catchment Management Authority	Construction
Wildlife Act 1975	Authorisation for the necessary control or management of any wildlife listed under the Wildlife Act, including removal or salvage activities.	Minister for Energy, Environment and Climate Change/Department of Energy, Environment and Climate Action	Construction Operation
Road Management Act 2004	Agreement between the land manager and the beneficiary landowner prior to approval of works within the road reserve.	Gannawarra Shire Loddon Council, Buloke Shire Council, Northern Grampians Shire Council, VicRoads, NHVR	Construction Operation

Legislation	Statutory approvals required	Statutory approval authority	Project phase
	Road reserves permit, road opening permits and vehicle crossing permits. Over-size vehicle/over dimensional load permits.		
Catchment and Land Protection Act 1994	A permit for the management of noxious weeds under Section 71 (if required).	Catchment Management Authority	Construction

5.6 Other relevant legislation

In addition to the required planning and environmental approvals to construct and operate the Project, other registrations, consents, licences or approvals may be required under the applicable legislation including the:

- *Climate Action Act 2017*
- *National Electricity (Victoria) Act 2005*
- *Native Title Act 1993* (Cth)
- *Traditional Owner Settlement Act 2010*
- *Land Acquisition and Compensation Act 1986*
- *Land Act 1958*

This list is not exhaustive and other project approvals may be identified as being required as Project development proceeds.

